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# INTRODUCTION TO ENVIRONMENTAL LAW

FALL 2006

Volume 2

Prof. Andrew Green



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FACULTY OF LAW  
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# ENVIRONMENTAL LAW

FALL 2006

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**Class:** Thursday, 2:10-4 pm  
FA2

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## **Course Requirements:**

Research Paper: 80%

The paper of not more than 20 (double spaced) pages can deal with any issue related to a topic covered in the course.

Class Participation: 20%

The class participation mark will be based on three 2 (double spaced) page comments on the current week's readings. The comments must be emailed to me on TWEN by 10 am on the day of the class. The comment should consist of your analysis of one or all of the readings for the class. It should not be a summary of the readings.

## **Readings:**

Two volume *Introduction to Environmental Law* casebook available at the Faculty of Law bookstore.

## Course Outline and Readings:

### I THE PROBLEM AND APPROACHES

- D. Boyd, *Unnatural Law: Rethinking Canadian Environmental Law and Policy* (Vancouver: UBC Press, 2003), Ch. 1: “Canada’s Environmental Record .....1
- G. Hardin, “The Tragedy of the Commons” (1968) 162 Science 1243 [Excerpt].....7
- R. Coase, *The Firm, The Market, and The Law* (Chicago: University of Chicago Press, 1988), Ch. 5: “The Problem of Social Cost” [pp. 95-104, 114-119].....10
- Aldo Leopold, *A Sand County Almanac* (New York: Oxford University Press, 1966) [pp. 217- 241].....19
- C. Stone, “Should Trees have Standing? – Towards Legal Rights for Natural Objects” (1972) 45 Southern Cal. L.R. 450 [Title page, pp. 458-481].....32
- C. Giagnocavo and H. Goldstein, “Law Reform or World Re-form: The Problem of Environmental Rights” (1990) 35 McGill L.J. 345 [pp. 375-386].....45
- “Taking Stock: 2002 North American Pollutant Releases and Transfers”, Commission for Environmental Cooperation of North America. [pp. 106-111, 121-123].....52

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- J. Benedickson, *Environmental Law (2d)* (Toronto: Irwin Law, 2002), Ch. 5: “Civil Liability for Environmental Harm”.....61
- British Columbia v. Canadian Forest Products Ltd.*, 2004 SCC 38 [Excerpt].....70
- F. Ackerman and L. Heinzerling, *Priceless* (New York: The New Press, 2004) [pp. 153-165].....86

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- Pearson v. Inco Ltd.* (2004), 44 C.P.C. (5<sup>th</sup>) 276 (Ont. Sup. Ct. J., Div. Ct.).....103
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#### *Theory*

R. Revesz and R. Stavins, "Environmental Law and Policy" for A.M. Polinsky and S. Shavell, eds., *The Handbook of Law and Economics* (Amsterdam: North-Holland/Elsevier Science, 2004) [pp. 56-61].....132

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#### *Federal/Provincial Relations*

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#### *Local Government*

*114957 Canada Ltee. v. Hudson (Town)* (2001), 200 D.L.R. (4<sup>th</sup>) 419 [pp. 419-27, 432-445].....195

#### *Aboriginal*

T. McClenaghan, "Why Should Aboriginal Peoples Exercise Governance Over Environmental Issues" (2002) 51 UNB LJ 211.....207

*Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73.....218

### IV REGULATIONS: CBA v. THE PRECAUTIONARY PRINCIPLE

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### ***Voluntary Mechanisms***

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### ***Green Consumerism***

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C. Sunstein, *Risk and Reason* (Cambridge: Cambridge University Press, 2002), Ch. 10: “Tools” [pp. 251-269].....246

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- H. Ian Rounthwaite, “A Theory of Compensation Under the Species at Risk Act Bill C-5,” *Journal of Environmental Law and Practice*, 10 (2000): 259-281.....418
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